IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1582 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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KRISHNA CHEMICALS

Versus

BAJORIA SYNTHETICS PRIVATE LIMITED

Appearance:

MR JAL SOLI UNWALA for Petitioners.

MR MB GANDHI for Respondent.

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 30/04/2002

ORAL JUDGEMENT

The petitioners have filed the present Civil Revision Application under Section 115 of the Code of Civil Procedure praying for quashing and setting aside the order passed by the learned Chamber Judge, City Civil Court, at Ahmedabad, below Exh. 23 in Summary Suit No. 1942 of 1999 [subsequently corrected as Summary Suit No. 1742 of 1997] on 22nd July 1999 to the extent to which conditional leave to the petitioners, the

original-defendants, to defend their case in the said summary suit was granted. This Court has admitted the Civil Revision Application on 7.12.1999 and proceedings of Summary Suit No. 1942 of 1999 were stayed till the next returnable date, i.e. 28.12.1999.

2. It appears from the record that writ was issued by this Court from time to time and lastly it was issued on 27.4.2000 to the Principal Judge, City Civil Court, Ahmedabad. The same was returned by the Registrar, City Civil Court, Ahmedabad without execution as the summary suit number was not correctly mentioned and request was made to issue correct writ so as to enable the City Civil Court, Ahmedabad to execute the same. On scrutiny of the papers of the aforesaid CRA it was found by the office that the correct number of Summary Suit is 1742 of 1997 as mentioned in the certified copy produced by the advocate for the petitioner but through oversight the wrong number was mentioned in the prayer clause and hence the earlier writ was issued. Accordingly the office has prepared a note and a direction is sought for placing the matter before the Hon'ble Court (Coram: S.K. Keshote, J.) on 13.6.2000 for passing appropriate orders regarding correct number of Summary Suit as Summary Suit No. 1742 of 1997 instead of Summary Suit No. 1942 of 1999. Accordingly, the correction was made by this Court on 13.6.2000 in its earlier order dated 7.12.1999.

3. Today when the matter was called out neither the applicants nor their advocates remained present either at the time of first call or at the time of second call. Mr. M.B. Gandhi, ld. advocate for the respondent is heard at length and he has produced before me a copy of the decree passed by the learned Chamber Judge in Summary Suit No. 1742 of 1997 on 3.12.1999 wherein it was observed that since the defendants have not deposited the conditional amount the decree for amount of Rs. 5,96,769/= for debt and interest and a sum of Rs. 5128.15 ps. for costs with 12% interest was passed in favour of the plaintiffs and against the defendants. On the basis of this, Mr. Gandhi, L.A. appearing for the respondents has submitted that since the decree has already been passed way back on 3.12.99, the date on which there was no stay granted by this Court against the execution, operation and implementation of the conditional order passed by the learned Chamber Judge on 22nd July 1999 in Summary Suit No. 1742 of 1997 the present CRA challenging the said conditional order does not survive. Mr. Gandhi has further submitted that if the applicants, original-defendants will have any grievance against the decree which was passed by the City

Civil Court, Ahmedabad, the same can be challenged by way of First Appeal before this Court.

4. I have gone through the records of the present Civil Revision Application and I have heard Mr. Gandhi at length on the issue raised by him. Since the decree has already been passed by the City Civil Court, Ahmedabad, on 3.12.1999, the present Civil Revision Application which arises from the conditional order passed on 22nd July 1999 has become infructuous and no relief can be granted in the C.R.A. This Civil Revision Application is therefore rejected. Rule discharged. There will be no order as to costs.

5. It is, however, open for the present applicants to challenge the final decree passed by the City Civil Court in Summary Suit No. 1742 of 1997 by taking appropriate action along with the application for condonation of delay if so advised.

rmr. [K.A. Puj, J.]